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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 Daniel Kirkland,
10 Plaintiff
11 vs.
12 Bally's Hotel and Casino,
13 Defendant
14

15 Case No.: 2:13-cv-00499-JAD-PAL
16 **Order Adopting Report and**
17 **Recommendation [Doc. 5] and**
18 **Dismissing Claims from Plaintiff's**
19 **Amended Complaint [Doc. 4]**

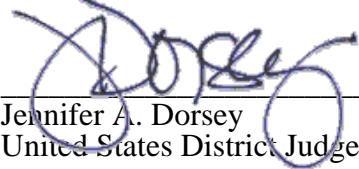
20 Daniel Kirkland is suing Bally's Hotel and Casino *in forma pauperis* for Bally's decision not
21 to hire him as a poker dealer and the Rio Casino and Hotel's subsequent decision to discharge him
22 on May 14, 2012. Doc. 4. Upon initial screening, the Court allowed Plaintiff to file an amended
23 complaint, giving him a second chance to state claims upon relief which relief could be granted.
24 Doc. 2. Plaintiff filed an amended complaint on May 8, 2013, Doc. 4, and after rescreening,
25 Magistrate Judge Peggy Leen recommended that Plaintiff's Title VII retaliation claim and 42 U.S.C.
§ 1983 claim be dismissed for failure to state a cognizable claim upon which relief can be granted.
Doc. 5 at 4. Judge Leen found that Plaintiff did state a Title VII discrimination claim and did not
recommend dismissal on that count. *See id.* at 3–4. Plaintiff has filed no objection to Judge Leen's
Order and Report and Recommendation.

The Court has considered Judge Leen's Report and Recommendation and Kirkland's
Amended Complaint consistent with 28 U.S.C. § 636, Local Rule 3-2, and applicable case law, and
good cause appearing:

1 It is **ORDERED** that Judge Leen's Report and Recommendation is **ADOPTED [Doc. 5]**.

2 It is **FURTHER ORDERED** that Plaintiff's Title VII retaliation claim and 42 U.S.C. § 1983
3 claim in the Amended Complaint are **DISMISSED** for failure to state a claim upon which relief can
4 be granted, leaving Plaintiff's Title VII discrimination claim as the only surviving claim.

5 Dated November 6, 2013.

6 
7 Jennifer A. Dorsey
8 United States District Judge